IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 2681 of 2001

For Approval and Signature:

HONOURABLE MR.JUSTICE JAYANT PATEL

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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VIMLABAI BALASAHEB - Petitioner(s)
Versus
GUJARAT HOUSING BAORD & 1 - Respondent(s)

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Appearance :

MR MEHUL S SHAH for Petitioner(s) : 1,
MR SURESH M SHAH for Petitioner(s) : 1,
MR YN RAVANI for Respondent(s) : 1 - 2.

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CORAM : HONOURABLE MR.JUSTICE JAYANT PATEL

Date : 17/08/2006

ORAL JUDGMENT

The short facts of the case are that the petitioner is holding the property, there are Development Plan for concerned area and Vadodara

Urban Development Authority has made reservation for Housing Board purpose. Such facts are not in dispute by both the sides. It is the case of the petitioner that the reservation came to be incorporated in the Development Plan and as there was no acquisition proceedings initiated for a period of about 10 years, notice was given on 30th May, 1998 by the petitioner under Section 20 of the Gujarat Town Planning and Urban Development Act (hereinafter referred to as "the Act") since as per the petitioner, the land came to be reserved for the first time as per the Draft Development Plan, which was prepared on 10th November, 1980. On 12th June, 1998 the respondent Housing Board intimated to the petitioner that steps are being taken for acquiring the petitioner's land and the same is pending. Under these circumstances, the petitioner has approached this Court for the relief, inter alia to declare that the reservation of the land of the petitioner bearing Survey No. 656 of village Kapurai of Vadodara Taluka (Block No. 7) has lapsed and the petitioner has alternatively, prayed that if the respondents need the land, they should forthwith agree to purchase the land of the petitioner by agreement or to initiate the proceedings for acquiring the land of the petitioner and to pay the compensation as required under the Land Acquisition Act.

Heard Mr. Shah, learned Counsel appearing for the petitioner, and Mr. Y.N. Ravani learned Counsel for the respondent board.

After some arguments, the learned Counsel

appearing for both the sides are at consensus on the point that the issue is covered by the decision of this Court in case of DEEPAKBHAI J. SHAH Vs STATE OF GUJARAT & ORS reported at 2005(1)GLR 373. Mr. Shah, learned Counsel for the petitioner has submitted that in the said case, the period granted was 12 months whereas the Court may reduce that period in this case considering the peculiar circumstances that sufficient time has been consumed and the petition has remained pending before this Court for a period of five years and even pending the petition no action is taken by the Housing Board for acquiring the land in question nor by the State Government at the instance of the Housing Board.

In view of the above, I find that no further discussion is required in this regard as the issue is covered by the decision of this Court in the case of D.J. SHAH (Supra). Considering the facts and circumstances, I find that certain directions deserve to be issued and are issued as under;

(1) It will be open to the respondent Gujarat Housing Board to acquire the subject land and to pay the amount of compensation as per the provisions of law either by agreement or by negotiations or by settlement or by proceedings under the Land Acquisition Act within a period of nine months, by way of an additional opportunity of accomplishing the object for which the land is reserved in the Development Plan.

(2) In the event of non-fulfillment and non-implementation of the directions hereinabove within

stipulated time limit, the consquences ipso facto would be that the reservation of the land in question shall stand lapsed and the land consequentially shall stand released from such reservation.

The petition is disposed of in terms of the aforesaid direction. Rule is partly made absolute. In the facts and circumstances there shall be no order as to costs.

(JAYANT PATEL, J.)

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